

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

5 Estate of VALERIE YOUNG, by VIOLA
YOUNG, as Administratrix of the
6 Estate of Valerie Young, and LORETTA
YOUNG LEE,

Plaintiffs,

-against-

STATE OF NEW YORK OFFICE OF MENTAL
10 RETARDATION AND DEVELOPMENTAL
DISABILITIES, PETER USCHAKOW,
11 personally and in his official
capacity, JAN WILLIAMSON, personally
12 and in her official capacity, SURESH
ARYA, personally and in his individual
13 capacity, KATHLEEN FERDINAND,
personally and in her official
14 capacity, GLORIA HAYES, personally
and in her official capacity,
15 DR. MILOS, personally and in his
official capacity,

Defendants.

75 Morton Street
New York, New York

April 18, 2008
10:25 A.M.

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2 DEPOSITION of GLORIA HAYES, one of the
3 Defendants in the above-entitled action,
4 held at the above time and place, taken
5 before Gretchen A. Milton, a Shorthand
6 Reporter and Notary Public of the State of
7 New York, pursuant to the Federal Rules of
8 Civil Procedure, Notice and stipulations
9 between Counsel.

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15 APPEARANCES:

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CATAFAGO LAW FIRM, P.C.
17 Attorneys for Plaintiffs
350 Fifth Avenue
18 New York, New York 10118

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BY: JACQUES CATAFAGO, ESQ.

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21 STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL
22 ANDREW M. CUOMO
Attorneys for Defendants
23 120 Broadway
New York, New York 10271-0332

24

BY: JOSE L. VELEZ, ESQ.

25

1 GLORIA HAYES

2 A. No.

3 Q. Did you ever see any documents
4 reflecting that she had been ambulated
5 prior to her death?

6 A. Did I see any documents?

7 Q. Yes.

8 A. I don't remember seeing any
9 documents.

10 Q. Were you ever asked anything with
11 regard to the amount of physical mobility
12 she had in the month before her death?
13 Did anyone ever ask you questions about
14 that, other than your counsel?

15 A. No.

16 Q. Are there any other patients
17 presently in the wing who use wheelchairs
18 for any purpose?

19 A. Yes.

20 Q. How many?

21 A. On that particular wing?

22 Q. Yes.

23 A. I have five or six.

24 Q. Are you aware of any written
25 orders that any physician at BDC --

1 GLORIA HAYES

2 whether Dr. Milos or anyone else -- has
3 ever issued with regard in any
4 wheelchair-using patient as to the
5 physical activity needed, a standing
6 order?

7 A. I am sorry. Could you rephrase
8 that?

9 MR. VELEZ: Objection to the
10 form.

11 Q. Are you aware of any standing
12 order issued by any physician, including
13 but not limited to Dr. Milos, with regard
14 to moving patients when they are in
15 wheelchairs, moving them about?

16 MR. VELEZ: Are you asking about
17 a standing order as to each particular
18 consumer?

19 MR. CATAFAGO: As to any of the
20 consumers.

21 A. On this particular wing or unit
22 itself?

23 Q. On the unit.

24 A. Yes.

25 Q. Are you aware whether any such

1 GLORIA HAYES

2 orders were ever issued for Valerie?

3 A. It's hard to recall. It's been a
4 while. It's hard to...

5 Q. Do you recall any --

6 A. Do I recall any what?

7 Q. -- standing orders?

8 A. With regard to her being
9 ambulated?

10 Q. Right.

11 Did the doctor ever write an
12 order to say to do it?

13 MR. VELEZ: Objection. What
14 doctor? Objection to the form.

15 A. I don't remember.

16 Q. Do you remember whether or not
17 Dr. Milos or anyone else ever wrote any
18 orders for anyone -- not just you -- for
19 anyone at BDC -- to move Valerie around?

20 A. For Valerie?

21 Q. Yes.

22 A. Other than myself?

23 Q. Yes. Do you know if he told
24 anyone that orally or in writing?

25 MR. VELEZ: If you remember.

1 GLORIA HAYES

2 THE WITNESS: Excuse me?

3 MR. CATAFAGO: I would like an
4 answer to the question first.

5 MR. VELEZ: If you remember.

6 A. I don't remember.

7 MR. CATAFAGO: Do you want to
8 take a break?

9 MR. VELEZ: Yes.

10 (A recess was taken.)

11 Q. I would like you to look at what
12 has been marked as Hayes Exhibit E. It is
13 the document Bates stamped Young 8798
14 through 8800.

15 MR. CATAFAGO: This is only copy
16 I have.

17 Q. I want to show you this Minor
18 Occurrence Report, and ask you whether or
19 not you recognize it.

20 A. I don't know about this one.

21 Q. Take a look for the moment at the
22 document and tell me whether or not you
23 remember the occurrence that's described
24 in there.

25 (Witness complies.)

1 GLORIA HAYES

2 Valerie's file?

3 A. No, no, no. I've got them.

4 MR. VELEZ: These are memos that
5 you wrote?

6 THE WITNESS: Yes.

7 MR. VELEZ: Who did you write
8 these memos to?

9 THE WITNESS: To the staff.

10 MR. VELEZ: What happened to
11 those memos when you distributed them
12 to the staff?

13 THE WITNESS: They were about
14 in-service training on how to deal
15 with her. Like, for instance, that
16 people had to go with her into the
17 bathroom.

18 MR. VELEZ: Are those records in
19 that ended up in the file?

20 MR. CATAFAGO: I am asking the
21 questions here.

22 Q. You never gave them -- whether or
23 not they ended up in the file --

24 MR. CATAFAGO: She was supposed
25 to supply all documents. They should

1 GLORIA HAYES

2 have been provided.

3 MR. VELEZ: That is correct. If
4 she writes a memo, that goes into
5 Valerie Young's records, and all that
6 has been produced, counsel.

7 MR. CATAFAGO: Mr. Velez, if they
8 were provided to you, if you have
9 already produced them, if you want to
10 say that, fine, but I don't believe
11 that's correct.

12 They have not been provided. If
13 you want to make that determination
14 and put it on the record, that's fine.
15 But she has now testified she has
16 documents that no one has produced.
17 As far as I understand it, she still
18 has them in her possession.

19 MR. VELEZ: No, that's not
20 correct. They have been provided to
21 you already. You have everything that
22 was in the file.

23 MR. CATAFAGO: They certainly
24 have been asked for. I asked for
25 every single document that was in the

1 GLORIA HAYES

2 possession of all defendants.

3 Q. You were asked to bring here
4 today every single document in your
5 possession.

6 A. I'm sorry. I didn't understand
7 that. I am sorry.

8 MR. VELEZ: There's a
9 misunderstanding here.

10 MR. CATAFAGO: Then let's
11 straighten this out.

12 Q. Did you produce them to your
13 attorneys?

14 A. Everything I had was sent over to
15 the director's office.

16 MR. VELEZ: Jan Williamson.

17 MR. CATAFAGO: Okay.

18 MR. VELEZ: So they were
19 provided.

20 Q. What exactly is meant by standing
21 orders to the staff?

22 A. It's only what I wrote...

23 Q. These three or four or five
24 pages, what was it that you wrote in those
25 three or four or five pages?

1 GLORIA HAYES

2 checks of the consumers assigned to their
3 group if they are not engaged in
4 activities in the wing," what does mean
5 that?

6 A. It's a requirement that they are
7 supposed to see them every 15 minutes.
8 They see them constantly because they are
9 in the sitting area with the group of
10 consumers.

11 Q. Next item, item 5: "Ensures
12 through review of wing core logs that any
13 untoward event involving any consumer,
14 including absence during 15-minute visual
15 check, is logged in with resulting staff
16 action taken," do you see that?

17 A. Yes.

18 Q. Do you know if that was done for
19 Valerie?

20 A. I'm sure it was.

21 Q. Do you know of any untoward
22 events that were not logged?

23 A. They logged everything.

24 Q. They logged everything?

25 A. As far as I know.

1 GLORIA HAYES

2 Q. So every incident or problem with
3 Valerie Young should be logged?

4 A. Yes.

5 Q. No. 6: "Assigns direct care
6 staff members to participate in treatment
7 programs with maximum consistency for
8 extended periods of time," what does that
9 mean?

10 A. That means like if they have
11 active treatment on the wing, that they
12 have a certain amount of time to engage in
13 that. Which they do. They have time
14 allotted to that during program time.
15 Time is allotted for doing recreation, and
16 there's time for doing wing activities.
17 You know, there are certain amounts of
18 time to engage in everything. That is
19 formal.

20 Q. Did Valerie get all that?

21 A. Yes.

22 Q. Did you ever notice that her legs
23 and feet were swollen?

24 A. I can't tell you when, but yes, I
25 remember that.